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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/077,889	02/20/2002	Luca Zucchelli	5788-82-01	3819

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EXAMINER

MEDLEY, MARGARET B

ART UNIT

PAPER NUMBER

1714

DATE MAILED: 02/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/077,889

Applicant(s)

ZUCCELLI ET AL.

Examiner

Margaret B. Medley

Art Unit

1714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10/28/2002 & 2/21/2003 tel. interview.
- 2a) ☒ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6, 9, 18, 23-28, 34-37 and 43 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 9-18, 23-28, 34-37 and 43 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☒ Interview Summary (PTO-413) Paper No(s). 8.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

This action is in response to the February 21, 2003 interview with Attorney D. Johnson requesting the examiner to issue a new office action correcting the record in Paper No. 7 mailed on February 6, 2003 that claims 6-8, 18 and 28 are rejected under 35 U.S.C. 112, first paragraph.

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 6-8, 18 and 28 remain rejected under 35 U.S.C. 112, first paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims remain rejected for reasons made of record in Paper No. 5 dated July 26, 2002.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 23-28 for reasons made of record in Paper No. 5 dated July 26, 2002 remain rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over FR 2,273,861.

Claims 1-6, 9-18, 23-28 and 34-36 for reasons made of record in Paper No. 5 dated July 26, 2002 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Schultz 4,152,119 combined with Blaustein 4,405,331.

Claims 37 and 43 for reasons made of record in Paper No. 5 dated July 26, 2002 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Schultz 4,152,119 combined with Blaustein 4,405,331 as applied to claims 1-6, 9-18, 23-28 and 34-36 above, and further in view of FR 2,733,302A GAS De France.

Applicants' amendments to the claims have overcome the previous objection to the claims.

Applicant's arguments filed October 28, 2002 have been fully considered but they are not persuasive.

The examiner maintains the position that claims 6-8, 18 and 28 are rejected under the 35 U.S.C. 112, first paragraph as containing new matter for the added limitation "mixture thereof".

Applicants' argued in Paper No. 2 dated April 19, 2002 that they believe that the specification, for example, at page 9, lines 7-8, provide support in that the teaching of instantaneously combusting fuel material comprising at least one fossil fuel, clearly suggests to one skilled in the art that more than one type of fossil fuel can be mixed.

The paragraph at page 9, lines 5-11 is reproduced below and reads as follows:

“In another embodiment thereof, the combustion method of the present invention comprises feeding an instantaneously

combusting fuel material, comprising at least one fossil fuel and a non-fossil fuel chosen from the group comprising USW, elastomeric and non-elastomeric polymer material and mixture thereof, into a zone of a boiler ... weight”.

It is the examiner's position that the said paragraph clearly does not support the amendment to claims 6-8, 18 and 28 that the fossil fuel is selected from the group consisting of methane, fossil coal dust, fuel oil, **and mixtures thereof**. The examiner 's takes this position especially when view in light of originally filed claim 6 that is directed to a **fossil fuel chosen from the group comprising methane, fuel oil, and fossil coal dust**; and in view of page 4 paragraph 3 listing each individually.

In additional support of their position applicants in Paper No. 2 dated April 19, 2002 argue that figure 7 also illustrates various flows 42A, 43A and 45 to bring in methane, fuel oil, and coal dust, respectively. One skilled in the art would understand from fig 7 disclosure that these flows maybe mixed prior to entering burners 12.

The examiner has carefully studied and taken a close review of page 13, lines 3-27 that discusses figure 7. A careful review of figure 7 does not teach or disclose a **mixture of the fossil fuels** as presented in amended claims 6-8, 18 and 28. Thus the evidence points out that applicants' arguments are not convincing and the examiner maintains the position that claims 6-8, 18 and 28 contain new matter.

The examiner's position is that the fuel of the patent by FR '861 encompasses urban solid waste (USW).

The examiner maintains the same position stated in Paper No. 5 dated July 26, 2002 with respect to the 103 rejections based on Schultz and Blaustein and with respect to the 103 rejection based on Schultz and Blaustein further in view of FR '302.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Margaret B. Medley whose telephone number is 703-308-2518. The examiner can normally be reached on Monday-Friday from 7:30 am to 6:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on 703-306-2777. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

M. B. Medley/mn
February 25, 2003


MARGARET MEDLEY
PRIMARY EXAMINER